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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-947]

Steel Grating from the People's Republic of China: Notice of Court Decision Not in Harmony With the Final Determination in the Less-Than-Fair-Value Investigation and Notice of Amended Final Determination Pursuant to Court Decision

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On April 9, 2014, the United States Court of International Trade ("CIT") sustained the Department of Commerce's (the "Department") results of redetermination, pursuant to the CIT's remand order, in Yantai Xinke Steel Structure Co., Ltd. v. United States, Slip Op. 2014-38 (CIT April 9, 2014), concerning the final determination of the less-than-fair-value investigation of certain steel grating from the People's Republic of China ("PRC").¹

Consistent with the decision of the United States Court of Appeals for the Federal Circuit ("CAFC") in Timken Co. v. United States, 893 F.2d 337 (Fed. Cir. 1990) ("Timken"), as clarified by Diamond Sawblades Mfrs. Coalition v. United States, 626 F.3d 1374 (Fed. Cir. 2010) ("Diamond Sawblades"), the Department is notifying the public that the final judgment in this case is not in harmony with the Department's Final Determination, and it is amending the Final Determination with respect to Yantai Xinke Steel Structure Co., Ltd. ("Yantai Xinke"), Ningbo Haitian International Co., Ltd. ("Haitian"), and Ningbo Jiulong Machinery Co., Ltd ("Jiulong").

DATES: EFFECTIVE DATE: April 19, 2014.

¹ See Final Results of Redetermination Pursuant to Court Remand, Court No. 10-00240, dated January 18, 2013, available at: <http://enforcement.trade.gov/remands/index.html> ("Steel Grating Final Remand"); Certain Steel Grating From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 32366 (June 8, 2010) ("Final Determination").

FOR FURTHER INFORMATION CONTACT: Brandon Farlander and Thomas Martin, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0182 and (202) 482-3936.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 2010, the Department published the Final Determination. Chinese exporters of steel grating from China, Yantai Xinke, Jiulong, and Haitian appealed the Department's Final Determination to the CIT, and on July 18, 2012, the Court remanded certain issues to the Department for reconsideration.² Consistent with the CIT's holding, in the Steel Grating Final Remand, the Department recalculated Yantai Xinke's and Haitian's weighted-average dumping margins using more contemporaneous surrogate value data, and assigned Jiulong a weighted-average dumping margin separate from that of the PRC-wide entity. The CIT subsequently affirmed the Department's Steel Grating Final Remand on April 9, 2014.

Timken Notice

In its decision in Timken, as clarified by Diamond Sawblades, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended ("the Act"), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision. The CIT's April 9, 2014, judgment sustaining the Steel Grating Final Remand constitutes a final decision of that court that is not in harmony with the Final Determination. This notice is published in fulfillment of the publication requirements of Timken.

² Yantai Xinke Steel Structure Co. v. United States, Slip Op. 2012-95 (CIT July 18, 2012).

Amended Final Determination

Because there is now a final court decision with respect to this litigation, the Department is amending its Final Determination with respect to Yantai Xinke's and Haitian's weighted-average dumping margins, and is assigning Jiulong a weighted-average dumping margin that is separate from that of the PRC-wide entity. The revised weighted-average dumping margins for the period October 1, 2008, through March 31, 2009, are as follows:

Producer	Exporter	Weighted-Average Dumping Margin
Ningbo Haitian International Co., Ltd.	Ningbo Lihong Steel Grating Co., Ltd.	38.16 %
Yantai Xinke Steel Structure Co., Ltd.	Yantai Xinke Steel Structure Co., Ltd.	38.16 %
Ningbo Jiulong Machinery Manufacturing Co., Ltd.	Ningbo Jiulong Machinery Manufacturing Co., Ltd.	145.18 %

Cash Deposit Requirements

Since the expiration of the period of appeal has concluded, the Department will instruct United States Customs and Border Protection (“CBP”) to liquidate all entries of subject merchandise which were suspended pending a final and conclusive court decision in accordance with 19 CFR 351.212(b)(1). Since the Final Determination, the Department has not established a new cash deposit rate for Yantai Xinke, Haitian or Jiulong. Therefore, consistent with section 751(a)(1) of the Act, the Department will instruct CBP to collect cash deposits for entries of subject merchandise for Yantai Xinke, Haitian and Jiulong (as a party separate from the PRC-wide entity) equal to the weighted-average dumping margin listed above under “Amended Final Determination.”

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: July 15, 2014.

Paul Piquado,
Assistant Secretary
for Import Administration.

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